

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of ALEX D. HARRIS, JR., Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

CHARLOTTE MILLER and ALEX HARRIS,

Respondents-Appellants.

UNPUBLISHED

May 10, 2005

No. 258913

Ingham Circuit Court

Family Division

LC No. 03-595181-NA

Before: Cooper, P.J., and Jansen and Hoekstra, JJ.

PER CURIAM.

Respondents appeal as of right from the trial court order terminating their parental rights to the minor child under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

The minor child was born on November 22, 2003, and had to be removed on December 2, 2003. He was lethargic, dehydrated, and suffering from respiratory syncytial virus. An order of disposition was entered on February 12, 2004.

Respondents both have developmental disabilities and received services since July 2003. These included, in November and December 2003, a home visitor who helped respondent mother with parenting information, curriculum, and videos, and a public health nurse who met with respondent mother four times before and three times after Alex's birth to discuss nutrition, safety, and postpartum care. Respondents also completed seventeen parenting classes with Building Strong Families and received assistance during visitations from Early Head Start. A community advocate was also available and provided some assistance. Despite these interventions, respondents did not achieve a level of competence where the foster care worker felt safe in returning Alex to their care.

On appeal, respondents argue that they should have been afforded more time to comply and services better tailored to their needs. We disagree. The trial court did not clearly err in finding clear and convincing evidence to establish statutory grounds for terminating respondents' parental rights. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 355; 612 NW2d 407 (2000). Respondents did not timely raise any issue of denial of reasonable accommodation under the Americans with Disabilities Act, 42 USC 12101 *et seq.*, *In re Terry*, 240 Mich App 14, 26-27;

610 NW2d 563 (2000), or specifically request more or different services when such could have been provided. Further, the record clearly showed that no amount of services or time could have overcome the barriers respondents faced in being able to adequately parent their child.

The evidence clearly supported the trial court's conclusions that subsections (c)(i), (g), and (j) were satisfied. For instance, respondent mother, the less impaired parent, had an IQ between 58 and 63 and read at a second grade level. She was unable to pay her own bills and it took about a year to teach her to properly bottle-feed Alex. At visitations, she used a suction device intended for Alex's nose in his ear, and she repeatedly brought the wrong size of clothes and type of food for him. These types of errors recurred despite repeated teaching and instruction. The evidence clearly and convincingly showed that respondent mother would be unable to safely parent Alex at any time in the foreseeable future. With respondent father, the evidence was even clearer. Respondent father's IQ tested below 55. During visitations, he would sleep, leave the room, play with his cell phone, and refuse to help care for Alex. At one point, he hit the caseworker and threatened to beat her up. He, too, was incapable of learning the complex facts and tasks involved in adequately caring for a young child. Based on a review of the record, we have no definite and firm conviction that the trial court committed error in finding sufficient evidence to terminate respondents' parental rights to the minor child. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

We also find no clear error in the trial court's decision on the issue of best interests of the child. MCL 712A.19b(5); *Trejo, supra* at 353. There was no evidence of a significant bond between Alex and either respondent, and it is in Alex's best interest to gain a permanent home as soon as possible. Because neither respondent would be able to provide a safe, adequate home within a reasonable time, it was not clearly against Alex's best interests to terminate respondents' parental rights.

Affirmed.

/s/ Jessica R. Cooper
/s/ Kathleen Jansen
/s/ Joel P. Hoekstra